



INDUSTRY CIRCULAR

**DEPARTMENT OF
THE TREASURY**

Bureau of Alcohol, Tobacco and Firearms

Washington, D.C. 20226

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CLARIFICATION OF "STRAW MAN TRANSACTIONS"

All Federal Firearms Licensees

The term "Straw Man Transactions" may be familiar to you. If not, we believe it would be helpful to you to explain what "Straw Man Transactions" are and offer some guidance concerning this type of transaction.

"Straw Man Transactions" are of two basic types, each of which involves a "third party" sale. In the first type, the dealer may have reason to believe that the person who executes the Form 4473 is being used as a conduit to make an illegal sale to a person prohibited by the Gun Control Act from purchasing a firearm. For instance, a dealer may be approached by a potential purchaser who, when asked to identify himself, produces out-of-State identification or identifies himself as a felon. When the dealer informs the individual that he cannot sell to him because he is an out-of-State resident or a felon, the individual produces a friend who is eligible to purchase. The friend ("Straw Man") is then used as the purchaser of record when it is obvious that the actual recipient is a prohibited person.

The second type of "Straw Man Transaction" is similar to the first. However, in this instance, it is the dealer himself who suggests to the potential purchaser that a third party be used to effect the sale and such a sale is completed.

The Gun Control Act of 1968 does not necessarily prohibit a dealer from making a sale to a person who is actually purchasing the firearm for another person. It makes no difference that the dealer knows that the purchaser will later transfer the firearm to another person, so long as the ultimate recipient is not prohibited from receiving or possessing a firearm. A dealer may lawfully sell a firearm to a parent or guardian who is purchasing it for a minor child. The minor's subsequent receipt or possession of the firearm would not violate Federal law, even though the law does prohibit a dealer's direct sale to the underaged person.

What the Act forbids is the sale or delivery of a firearm to a person the licensee knows or has reason to believe is a person to whom a firearm may not be sold (e.g. a nonresident or a felon) or to a person the licensee knows will transfer the firearm to a person prohibited from receiving or possessing it.

A firearms licensee runs the risk of violating the law when he becomes involved in a transaction where it is apparent that the purchaser of record is merely being used to disguise the actual sale to another person, who could not personally make the purchase or is prohibited from receiving or possessing a firearm.

Where the dealer knowingly utilizes this technique to sell a firearm to a prohibited person, both he and the "third person" or "Straw Man" are placed in a position of unlawfully aiding the prohibited person's own violation.

We realize that this circular is quite general in tone. The best advice we can give is that the dealer should be sure to have Form 4473 completed by the person to whom the dealer is actually selling the firearm; and if the dealer has any reason to believe the firearm is being acquired for a prohibited person, he should avoid the transaction.

If you need further advice, do not hesitate to contact the Bureau of Alcohol, Tobacco and Firearms at the Office of the local Special Agent in Charge, or the Regional Regulatory Administrator.

Q. R. DeLoach

Director

Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226

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